

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 3200

1 AN ACT TO PHASE IN, OVER A TEN-YEAR PERIOD, AN AD VALOREM TAX
2 EXEMPTION ON COMMODITIES, GOODS, WARES AND MERCHANDISE HELD FOR
3 RESALE BY ANY MANUFACTURER, DISTRIBUTOR OR WHOLESALE OR RETAIL
4 MERCHANT; TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972, TO
5 PROVIDE FOR A SALES TAX DIVERSION TO COUNTIES; TO AMEND SECTION
6 27-7-22.5, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND
7 FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** (1) From and after January 1, 2008, through
10 December 31, 2008, ten percent (10%) of the true value of all
11 commodities, goods, wares and merchandise held for resale by any
12 manufacturer, distributor or wholesale or retail merchant shall be
13 exempt from ad valorem taxation.

14 (2) From and after January 1, 2009, through December 31,
15 2009, twenty percent (20%) of the true value of all commodities,
16 goods, wares and merchandise held for resale by any manufacturer,
17 distributor or wholesale or retail merchant shall be exempt from
18 ad valorem taxation.

19 (3) From and after January 1, 2010, through December 31,
20 2010, thirty percent (30%) of the true value of all commodities,
21 goods, wares and merchandise held for resale by any manufacturer,
22 distributor or wholesale or retail merchant shall be exempt from
23 ad valorem taxation.

24 (4) From and after January 1, 2011, through December 31,
25 2011, forty percent (40%) of the true value of all commodities,
26 goods, wares and merchandise held for resale by any manufacturer,
27 distributor or wholesale or retail merchant shall be exempt from
28 ad valorem taxation.

29 (5) From and after January 1, 2012, through December 31,
30 2012, fifty percent (50%) of the true value of all commodities,
31 goods, wares and merchandise held for resale by any manufacturer,
32 distributor or wholesale or retail merchant shall be exempt from
33 ad valorem taxation.

34 (6) From and after January 1, 2013, through December 31,
35 2013, sixty percent (60%) of the true value of all commodities,
36 goods, wares and merchandise held for resale by any manufacturer,
37 distributor or wholesale or retail merchant shall be exempt from
38 ad valorem taxation.

39 (7) From and after January 1, 2014, through December 31,
40 2014, seventy percent (70%) of the true value of all commodities,
41 goods, wares and merchandise held for resale by any manufacturer,
42 distributor or wholesale or retail merchant shall be exempt from
43 ad valorem taxation.

44 (8) From and after January 1, 2015, through December 31,
45 2015, eighty percent (80%) of the true value of all commodities,
46 goods, wares and merchandise held for resale by any manufacturer,
47 distributor or wholesale or retail merchant shall be exempt from
48 ad valorem taxation.

49 (9) From and after January 1, 2016, through December 31,
50 2016, ninety percent (90%) of the true value of all commodities,
51 goods, wares and merchandise held for resale by any manufacturer,
52 distributor or wholesale or retail merchant shall be exempt from
53 ad valorem taxation.

54 (10) From and after January 1, 2017, all commodities, goods,
55 wares and merchandise held for resale by any manufacturer,
56 distributor or wholesale or retail merchant shall be exempt from
57 ad valorem taxation.

58 **SECTION 2.** Section 27-65-75, Mississippi Code of 1972, is
59 amended as follows:

60 27-65-75. On or before the fifteenth day of each month, the
61 revenue collected under the provisions of this chapter during the
62 preceding month shall be paid and distributed as follows:

63 (1) (a) On or before August 15, 1992, and each succeeding
64 month thereafter through July 15, 1993, eighteen percent (18%) of
65 the total sales tax revenue collected during the preceding month
66 under the provisions of this chapter, except that collected under
67 the provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
68 business activities within a municipal corporation shall be
69 allocated for distribution to the municipality and paid to the
70 municipal corporation. On or before August 15, 1993, and each
71 succeeding month thereafter, eighteen and one-half percent
72 (18-1/2%) of the total sales tax revenue collected during the
73 preceding month under the provisions of this chapter, except that
74 collected under the provisions of Sections 27-65-15, 27-65-19(3)
75 and 27-65-21, on business activities within a municipal
76 corporation shall be allocated for distribution to the
77 municipality and paid to the municipal corporation.

78 A municipal corporation, for the purpose of distributing the
79 tax under this subsection, shall mean and include all incorporated
80 cities, towns and villages.

81 Monies allocated for distribution and credited to a municipal
82 corporation under this subsection may be pledged as security for a
83 loan if the distribution received by the municipal corporation is
84 otherwise authorized or required by law to be pledged as security
85 for such a loan.

86 In any county having a county seat that is not an
87 incorporated municipality, the distribution provided under this
88 subsection shall be made as though the county seat was an
89 incorporated municipality; however, the distribution to the
90 municipality shall be paid to the county treasury in which the
91 municipality is located, and those funds shall be used for road,
92 bridge and street construction or maintenance in the county.

93 (b) On or before August 15, 2006, and each succeeding
94 month thereafter, eighteen and one-half percent (18-1/2%) of the
95 total sales tax revenue collected during the preceding month under
96 the provisions of this chapter, except that collected under the
97 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
98 business activities on the campus of a state institution of higher
99 learning or community or junior college whose campus is not
100 located within the corporate limits of a municipality, shall be
101 allocated for distribution to the state institution of higher
102 learning or community or junior college and paid to the state
103 institution of higher learning or community or junior college.

104 (c) Each month the following percentage of the total
105 sales tax revenue collected during the preceding month under the
106 provisions of this chapter, except that collected under the
107 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
108 business activities within a county that occur outside a municipal
109 corporation shall be allocated for distribution to the county and
110 paid to the county:

111 (i) On or after February 15, 2008, and each
112 succeeding month thereafter through January 15, 2009..... 1.85%;

113 (ii) On or after February 15, 2009, and each
114 succeeding month thereafter through January 15, 2010..... 3.7%;

115 (iii) On or after February 15, 2010, and each
116 succeeding month thereafter through January 15, 2011..... 15.55%;

117 (iv) On or after February 15, 2011, and each
118 succeeding month thereafter through January 15, 2012..... 7.4%;

119 (v) On or after February 15, 2012, and each
120 succeeding month thereafter through January 15, 2013..... 9.25%;

121 (vi) On or after February 15, 2013, and each
122 succeeding month thereafter through January 15, 2014..... 11.1%;

123 (vii) On or after February 15, 2014, and each
124 succeeding month thereafter through January 15, 2015..... 12.95%;

125 (viii) On or after February 15, 2015, and each
126 succeeding month thereafter through January 15, 2016..... 14.8%;

127 (ix) On or after February 15, 2016, and each
128 succeeding month thereafter through January 15, 2017..... 16.65%;

129 and

130 (x) On or after February 15, 2017, and each
131 succeeding month thereafter..... 18.5%.

132 (2) On or before September 15, 1987, and each succeeding
133 month thereafter, from the revenue collected under this chapter
134 during the preceding month, One Million One Hundred Twenty-five
135 Thousand Dollars (\$1,125,000.00) shall be allocated for
136 distribution to municipal corporations as defined under subsection
137 (1) of this section in the proportion that the number of gallons
138 of gasoline and diesel fuel sold by distributors to consumers and
139 retailers in each such municipality during the preceding fiscal
140 year bears to the total gallons of gasoline and diesel fuel sold
141 by distributors to consumers and retailers in municipalities
142 statewide during the preceding fiscal year. The State Tax
143 Commission shall require all distributors of gasoline and diesel
144 fuel to report to the commission monthly the total number of
145 gallons of gasoline and diesel fuel sold by them to consumers and
146 retailers in each municipality during the preceding month. The
147 State Tax Commission shall have the authority to promulgate such
148 rules and regulations as is necessary to determine the number of
149 gallons of gasoline and diesel fuel sold by distributors to
150 consumers and retailers in each municipality. In determining the
151 percentage allocation of funds under this subsection for the
152 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
153 State Tax Commission may consider gallons of gasoline and diesel
154 fuel sold for a period of less than one (1) fiscal year. For the
155 purposes of this subsection, the term "fiscal year" means the
156 fiscal year beginning July 1 of a year.

157 (3) On or before September 15, 1987, and on or before the
158 fifteenth day of each succeeding month, until the date specified
159 in Section 65-39-35, the proceeds derived from contractors' taxes
160 levied under Section 27-65-21 on contracts for the construction or
161 reconstruction of highways designated under the highway program
162 created under Section 65-3-97 shall, except as otherwise provided
163 in Section 31-17-127, be deposited into the State Treasury to the
164 credit of the State Highway Fund to be used to fund that highway
165 program. The Mississippi Department of Transportation shall
166 provide to the State Tax Commission such information as is
167 necessary to determine the amount of proceeds to be distributed
168 under this subsection.

169 (4) On or before August 15, 1994, and on or before the
170 fifteenth day of each succeeding month through July 15, 1999, from
171 the proceeds of gasoline, diesel fuel or kerosene taxes as
172 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
173 (\$4,000,000.00) shall be deposited in the State Treasury to the
174 credit of a special fund designated as the "State Aid Road Fund,"
175 created by Section 65-9-17. On or before August 15, 1999, and on
176 or before the fifteenth day of each succeeding month, from the
177 total amount of the proceeds of gasoline, diesel fuel or kerosene
178 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
179 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
180 one-fourth percent (23-1/4%) of those funds, whichever is the
181 greater amount, shall be deposited in the State Treasury to the
182 credit of the "State Aid Road Fund," created by Section 65-9-17.
183 Those funds shall be pledged to pay the principal of and interest
184 on state aid road bonds heretofore issued under Sections 19-9-51
185 through 19-9-77, in lieu of and in substitution for the funds
186 previously allocated to counties under this section. Those funds
187 may not be pledged for the payment of any state aid road bonds
188 issued after April 1, 1981; however, this prohibition against the
189 pledging of any such funds for the payment of bonds shall not

190 apply to any bonds for which intent to issue those bonds has been
191 published, for the first time, as provided by law before March 29,
192 1981. From the amount of taxes paid into the special fund under
193 this subsection and subsection (9) of this section, there shall be
194 first deducted and paid the amount necessary to pay the expenses
195 of the Office of State Aid Road Construction, as authorized by the
196 Legislature for all other general and special fund agencies. The
197 remainder of the fund shall be allocated monthly to the several
198 counties in accordance with the following formula:

199 (a) One-third (1/3) shall be allocated to all counties
200 in equal shares;

201 (b) One-third (1/3) shall be allocated to counties
202 based on the proportion that the total number of rural road miles
203 in a county bears to the total number of rural road miles in all
204 counties of the state; and

205 (c) One-third (1/3) shall be allocated to counties
206 based on the proportion that the rural population of the county
207 bears to the total rural population in all counties of the state,
208 according to the latest federal decennial census.

209 For the purposes of this subsection, the term "gasoline,
210 diesel fuel or kerosene taxes" means such taxes as defined in
211 paragraph (f) of Section 27-5-101.

212 The amount of funds allocated to any county under this
213 subsection for any fiscal year after fiscal year 1994 shall not be
214 less than the amount allocated to the county for fiscal year 1994.

215 Any reference in the general laws of this state or the
216 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
217 construed to refer and apply to subsection (4) of Section
218 27-65-75.

219 (5) One Million Six Hundred Sixty-six Thousand Six Hundred
220 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into
221 the special fund known as the "State Public School Building Fund"
222 created and existing under the provisions of Sections 37-47-1

223 through 37-47-67. Those payments into that fund are to be made on
224 the last day of each succeeding month hereafter.

225 (6) An amount each month beginning August 15, 1983, through
226 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
227 of 1983, shall be paid into the special fund known as the
228 Correctional Facilities Construction Fund created in Section 6 of
229 Chapter 542, Laws of 1983.

230 (7) On or before August 15, 1992, and each succeeding month
231 thereafter through July 15, 2000, two and two hundred sixty-six
232 one-thousandths percent (2.266%) of the total sales tax revenue
233 collected during the preceding month under the provisions of this
234 chapter, except that collected under the provisions of Section
235 27-65-17(2) shall be deposited by the commission into the School
236 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
237 or before August 15, 2000, and each succeeding month thereafter,
238 two and two hundred sixty-six one-thousandths percent (2.266%) of
239 the total sales tax revenue collected during the preceding month
240 under the provisions of this chapter, except that collected under
241 the provisions of Section 27-65-17(2), shall be deposited into the
242 School Ad Valorem Tax Reduction Fund created under Section
243 37-61-35 until such time that the total amount deposited into the
244 fund during a fiscal year equals Forty-two Million Dollars
245 (\$42,000,000.00). Thereafter, the amounts diverted under this
246 subsection (7) during the fiscal year in excess of Forty-two
247 Million Dollars (\$42,000,000.00) shall be deposited into the
248 Education Enhancement Fund created under Section 37-61-33 for
249 appropriation by the Legislature as other education needs and
250 shall not be subject to the percentage appropriation requirements
251 set forth in Section 37-61-33.

252 (8) On or before August 15, 1992, and each succeeding month
253 thereafter, nine and seventy-three one-thousandths percent
254 (9.073%) of the total sales tax revenue collected during the
255 preceding month under the provisions of this chapter, except that

256 collected under the provisions of Section 27-65-17(2), shall be
257 deposited into the Education Enhancement Fund created under
258 Section 37-61-33.

259 (9) On or before August 15, 1994, and each succeeding month
260 thereafter, from the revenue collected under this chapter during
261 the preceding month, Two Hundred Fifty Thousand Dollars
262 (\$250,000.00) shall be paid into the State Aid Road Fund.

263 (10) On or before August 15, 1994, and each succeeding month
264 thereafter through August 15, 1995, from the revenue collected
265 under this chapter during the preceding month, Two Million Dollars
266 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
267 Valorem Tax Reduction Fund established in Section 27-51-105.

268 (11) Notwithstanding any other provision of this section to
269 the contrary, on or before February 15, 1995, and each succeeding
270 month thereafter, the sales tax revenue collected during the
271 preceding month under the provisions of Section 27-65-17(2) and
272 the corresponding levy in Section 27-65-23 on the rental or lease
273 of private carriers of passengers and light carriers of property
274 as defined in Section 27-51-101 shall be deposited, without
275 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
276 established in Section 27-51-105.

277 (12) Notwithstanding any other provision of this section to
278 the contrary, on or before August 15, 1995, and each succeeding
279 month thereafter, the sales tax revenue collected during the
280 preceding month under the provisions of Section 27-65-17(1) on
281 retail sales of private carriers of passengers and light carriers
282 of property, as defined in Section 27-51-101 and the corresponding
283 levy in Section 27-65-23 on the rental or lease of these vehicles,
284 shall be deposited, after diversion, into the Motor Vehicle Ad
285 Valorem Tax Reduction Fund established in Section 27-51-105.

286 (13) On or before July 15, 1994, and on or before the
287 fifteenth day of each succeeding month thereafter, that portion of
288 the avails of the tax imposed in Section 27-65-22 that is derived

289 from activities held on the Mississippi State Fairgrounds Complex,
290 shall be paid into a special fund that is created in the State
291 Treasury and shall be expended upon legislative appropriation
292 solely to defray the costs of repairs and renovation at the Trade
293 Mart and Coliseum.

294 (14) On or before August 15, 1998, and each succeeding month
295 thereafter through July 15, 2005, that portion of the avails of
296 the tax imposed in Section 27-65-23 that is derived from sales by
297 cotton compresses or cotton warehouses and that would otherwise be
298 paid into the General Fund, shall be deposited in an amount not to
299 exceed Two Million Dollars (\$2,000,000.00) into the special fund
300 created under Section 69-37-39.

301 (15) Notwithstanding any other provision of this section to
302 the contrary, on or before September 15, 2000, and each succeeding
303 month thereafter, the sales tax revenue collected during the
304 preceding month under the provisions of Section 27-65-19(1)(f) and
305 (g)(i)2, shall be deposited, without diversion, into the
306 Telecommunications Ad Valorem Tax Reduction Fund established in
307 Section 27-38-7.

308 (16) On or before August 15, 2000, and each succeeding month
309 thereafter, the sales tax revenue collected during the preceding
310 month under the provisions of this chapter on the gross proceeds
311 of sales of a project as defined in Section 57-30-1 shall be
312 deposited, after all diversions except the diversion provided for
313 in subsection (1) of this section, into the Sales Tax Incentive
314 Fund created in Section 57-30-3.

315 (17) Notwithstanding any other provision of this section to
316 the contrary, on or before April 15, 2002, and each succeeding
317 month thereafter, the sales tax revenue collected during the
318 preceding month under Section 27-65-23 on sales of parking
319 services of parking garages and lots at airports shall be
320 deposited, without diversion, into the special fund created under
321 Section 27-5-101(d).

322 (18) On or before August 15, 2007, and each succeeding month
323 thereafter through July 15, 2008, from the sales tax revenue
324 collected during the preceding month under the provisions of this
325 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
326 shall be deposited into the Special Funds Transfer Fund created in
327 Section 4 of Chapter 556, Laws of 2003.

328 (19) (a) On or before August 15, 2005, and each succeeding
329 month thereafter, the sales tax revenue collected during the
330 preceding month under the provisions of this chapter on the gross
331 proceeds of sales of a business enterprise located within a
332 redevelopment project area under the provisions of Sections
333 57-91-1 through 57-91-11, and the revenue collected on the gross
334 proceeds of sales from sales made to a business enterprise located
335 in a redevelopment project area under the provisions of Sections
336 57-91-1 through 57-91-11 (provided that such sales made to a
337 business enterprise are made on the premises of the business
338 enterprise), shall, except as otherwise provided in this
339 subsection (19), be deposited, after all diversions, into the
340 Redevelopment Project Incentive Fund as created in Section
341 57-91-9.

342 (b) For a municipality participating in the Economic
343 Redevelopment Act created in Sections 57-91-1 through 57-91-11,
344 the diversion provided for in subsection (1) of this section
345 attributable to the gross proceeds of sales of a business
346 enterprise located within a redevelopment project area under the
347 provisions of Sections 57-91-1 through 57-91-11, and attributable
348 to the gross proceeds of sales from sales made to a business
349 enterprise located in a redevelopment project area under the
350 provisions of Sections 57-91-1 through 57-91-11 (provided that
351 such sales made to a business enterprise are made on the premises
352 of the business enterprise), shall be deposited into the
353 Redevelopment Project Incentive Fund as created in Section
354 57-91-9, as follows:

355 (i) For the first six (6) years in which payments
356 are made to a developer from the Redevelopment Project Incentive
357 Fund, one hundred percent (100%) of the diversion shall be
358 deposited into the fund;

359 (ii) For the seventh year in which such payments
360 are made to a developer from the Redevelopment Project Incentive
361 Fund, eighty percent (80%) of the diversion shall be deposited
362 into the fund;

363 (iii) For the eighth year in which such payments
364 are made to a developer from the Redevelopment Project Incentive
365 Fund, seventy percent (70%) of the diversion shall be deposited
366 into the fund;

367 (iv) For the ninth year in which such payments are
368 made to a developer from the Redevelopment Project Incentive Fund,
369 sixty percent (60%) of the diversion shall be deposited into the
370 fund; and

371 (v) For the tenth year in which such payments are
372 made to a developer from the Redevelopment Project Incentive Fund,
373 fifty percent (50%) of the funds shall be deposited into the fund.

374 (20) On or before January 15, 2007, and each succeeding
375 month thereafter, eighty percent (80%) of the sales tax revenue
376 collected during the preceding month under the provisions of this
377 chapter from the operation of a tourism project under the
378 provisions of Sections 57-28-1 through 57-28-5, shall be
379 deposited, after the diversions required in subsections (7) and
380 (8) of this section, into the Tourism Sales Tax Incentive Fund
381 created in Section 57-28-3.

382 (21) The remainder of the amounts collected under the
383 provisions of this chapter shall be paid into the State Treasury
384 to the credit of the General Fund.

385 (22) It shall be the duty of the municipal officials of any
386 municipality that expands its limits, or of any community that
387 incorporates as a municipality, to notify the commissioner of that

388 action thirty (30) days before the effective date. Failure to so
389 notify the commissioner shall cause the municipality to forfeit
390 the revenue that it would have been entitled to receive during
391 this period of time when the commissioner had no knowledge of the
392 action. If any funds have been erroneously disbursed to any
393 municipality or any overpayment of tax is recovered by the
394 taxpayer, the commissioner may make correction and adjust the
395 error or overpayment with the municipality by withholding the
396 necessary funds from any later payment to be made to the
397 municipality.

398 **SECTION 3.** Section 27-7-22.5, Mississippi Code of 1972, is
399 amended as follows:

400 27-7-22.5. (1) For any manufacturer, distributor, wholesale
401 or retail merchant who pays to a county, municipality, school
402 district, levee district or any other taxing authority of the
403 state or a political subdivision thereof, ad valorem taxes imposed
404 on commodities, products, goods, wares and merchandise held for
405 resale, a credit against the income taxes imposed under this
406 chapter shall be allowed for the portion of the ad valorem taxes
407 so paid in the amounts prescribed in subsection (2).

408 (2) The tax credit allowed by this section shall not exceed
409 the amounts set forth in paragraphs (a) through (d) of this
410 subsection; may be claimed only in the year in which the ad
411 valorem taxes are paid; and may be claimed for each location where
412 such commodities, products, goods, wares and merchandise are found
413 and upon which the ad valorem taxes have been paid.

414 (a) For the 1994 taxable year, the tax credit for each
415 location of the taxpayer shall not exceed the lesser of Two
416 Thousand Dollars (\$2,000.00) or the amount of income taxes due the
417 State of Mississippi that are attributable to such location.

418 (b) For the 1995 taxable year, the tax credit for each
419 location of the taxpayer shall not exceed the lesser of Three

420 Thousand Dollars (\$3,000.00) or the amount of income taxes due the
421 State of Mississippi that are attributable to such location.

422 (c) For the 1996 taxable year, the tax credit for each
423 location of the taxpayer shall not exceed the lesser of Four
424 Thousand Dollars (\$4,000.00) or the amount of income taxes due the
425 State of Mississippi that are attributable to such location.

426 (d) For the 1997 taxable year and each taxable year
427 thereafter through the 2007 taxable year, the tax credit for each
428 location of the taxpayer shall not exceed the lesser of Five
429 Thousand Dollars (\$5,000.00) or the amount of income taxes due the
430 State of Mississippi that are attributable to such location.

431 (3) Any amount of ad valorem taxes paid by a taxpayer that
432 is applied toward the tax credit allowed in this section may not
433 be used as a deduction by the taxpayer for state income tax
434 purposes. In the case of a taxpayer that is a partnership or S
435 corporation, the credit may be applied only to the tax
436 attributable to partnership or S corporation income derived from
437 the taxpayer.

438 **SECTION 4.** This act shall take effect and be in force from
439 and after July 1, 2007.